

REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The September 4, 2009 Office Action and the Examiner's comments have been carefully considered. In response, remarks are set forth below in a sincere effort to place the present application in form for allowance.

REJECTION UNDER 35 USC 103(a)

In the Office Action claims 1-3, 5-8, 11, 12 and 15-18 are rejected under 35 USC 103(a) as being obvious and unpatentable over Dittrich et al. (Applied Surface Sci) in view of admitted prior art. Claims 4, 9, 10, 13 and 14 are rejected under 35 USC 103(a) as being obvious and unpatentable over Dittrich et al. in view of admitted prior art.

The courtesy of Examiner Kunemund in conducting an interview in connection with this application is acknowledged and appreciated. The interview took place on October 21, 2009. Present at the interview were Examiner Robert Kunemund and Applicants' attorney, Robert Michal. During the interview, Applicants' attorney inquired as to the meaning of "admitted prior art" mentioned by the Examiner in the prior art rejection set forth in pages 2-3 of the September 4, 2009 Office Action.

In response, the Examiner advised Applicants' attorney that "admitted prior art" is the information contained in the last paragraph on page 2 of the present application as filed.

The present claimed invention as defined by independent claim 1 is directed to an organic crystal working method in which an organic crystal is worked by irradiation with short-pulse laser light, wherein working is performed in a state in which the portion of the organic crystal being worked is cooled to a low temperature. In the Office Action the Examiner contends that Dittrich et al. teach a method and apparatus for laser treating organic materials like the present claimed invention with the exception that Dittrich et al. do not teach cooling of the crystals. To bridge the gap between the present claimed invention as defined by claim 1 and Dittrich et al., the Examiner relies upon admitted prior art in the specification in the last paragraph of page 2.

In response to the prior art rejection, Applicants respectfully point out that the admitted prior art in the specification (the last paragraph on page 2) does not teach that cooling below zero degrees centigrade with nitrogen gas is a standard processing step when working organic crystals. In the last paragraph on page 2 of the specification there is a representation that there are instances in which analysis and

measurements are performed when crystals are cooled in order to prevent damage to the organic crystals caused by irradiation with high-intensity X-rays, and that in cases where extremely brittle crystals such as protein crystals are the object of analysis, analysis is generally performed in a cooled state (at an extremely low temperature of -150 degrees centigrade or lower) by means of a low-temperature gas such as nitrogen. Thus, the prior art discloses that analysis and measurements are performed in a cooled state. However, the prior art does not disclose, teach or suggest an organic crystal working method and apparatus wherein the portion of the crystal being worked is cooled to a low temperature.

That is, the admitted prior art found in the last paragraph of page 2 of the present application teaches cooling single crystals of organic materials to a temperature of -150 degrees centigrade or lower by means of a low-temperature gas such as nitrogen in order to prevent damage to the organic crystals caused during analysis and measurement. This is entirely different from the present claimed invention wherein low temperatures are utilized during working an organic crystal with short-pulse laser light. Working of an organic crystal so that the organic crystal is in a desired shape that is appropriate for analysis is completely different and patentably distinct from

analyzing an organic crystal in an extremely low temperature state to prevent crystal damage during analysis and measurement of the crystal.

It would not have been obvious to one of ordinary skill in the art at the time the invention was made to cool an organic crystal during working of the organic crystal in view of the admitted prior art which teaches analyzing and measuring organic crystals in an extremely cooled state.

In view of the foregoing, claim 1 is patentable over the references of record.

Claims 2 includes limitations similar to those found in claim 1. Claim 2 is patentable over the prior art of record for reasons, inter alia, set forth above in connection with claim 1.

Claim 12 is an apparatus claim which includes limitations similar to those found in method claims 1 and 2. Claim 12 is patentable over the references of record for reasons, inter alia, set forth above in connection with claim 1.

Claims 3-11 and 13-18 are either directly or indirectly dependent on claims 1, 2 or 12, and are patentable over the references of record in view of their dependence on claims 1, 2 or 12, and because the references do not disclose, teach or suggest each of the limitations found in dependent claims 3-11 and 13-18.

In view of all of the foregoing, claims 1-18 are in form for immediate allowance, which action is earnestly solicited.

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Allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



Robert W. Michal
Reg. No. 35,614

Frishauf, Holtz, Goodman & Chick, P.C.
220 Firth Avenue
New York, New York 10001-7708
Tel. (212) 319-4900
Fax (212) 319-5101
RPM/ms